AMENDMENTS TO THE CLAIMS

Please add Claims 43-62.

Please cancel Claims 6 and 27.

Please amend Claims 1-5, 7-26, and 28-42 as follows:

1. (Currently Amended) A process for a determining server performance metrics in a network, comprising the steps of:

providing service metric probe means resident on a server for determining ~~the~~ service availability and metric measurements of types of services provided by a content delivery ~~machine~~ server;

providing latency probe means resident on a server for determining ~~the~~ latency values for [[of]] various content delivery servers within said network;

wherein said service metric probe means consults a configuration file containing each DNS name in ~~its~~ said service metric probe means' area and ~~the~~ any set(s) of services associated with each DNS name;

wherein said services include~~, but are not limited to~~ any of: HTTP, HTTPS, FTP, streaming media, [[and/]]or generic SNMP; and

wherein said latency probe means calculates ~~the~~ a latency value from ~~its~~ said latency probe means' location to a client's location.

2. (Currently Amended) The process of claim 1, wherein each content delivery server in said network has a metric test associated with each service supported by ~~said~~ each content delivery server.

3. (Currently Amended) The process of claim 1, wherein said service metric probe means periodically performs metric tests on ~~the~~ content delivery servers within ~~its~~ said service metric probe means' area, and wherein said service metric probe means records ~~the~~ metric results from said periodic tests.

4. (Currently Amended) The process of claim 1, wherein said latency probe means calculates ~~the~~ a round trip time for sending a packet to a client to obtain the latency value, and wherein ~~the~~ round trip time tests that said latency probe means performs, includes~~, but are not limited to~~ any of: PING, UDP Reverse Name lookup, [[and/]]or UDP Packets to high number ports.

5. (Currently Amended) The process of claim 1, wherein when said latency probe means sends a UDP Packet probe to high number ports that fail[[s]], said latency probe means resends said UDP Packet probe with a low TTL number and increments the TTL number until failure occurs, ~~the~~ a last successful TTL ~~value~~ number ~~will~~ indicates ~~the~~ partial latency data.

6. (Canceled)

7. (Currently Amended) The process of claim [[6]] 1, wherein said service metric probe means sends an update to all ~~of said~~ DNS servers in said network that consists of all tests since ~~the~~ a last update.

8. (Currently Amended) The process of claim [[6]] 1, wherein said latency probe means updates ~~said~~ DNS servers with ~~the~~ a clients' latency data.

9. (Currently Amended) The process of claim [[6]] 1, wherein a DNS server uses ~~said~~ latency ~~test~~ data updates from said latency probe means to determine ~~the~~ a closest content delivery server to a client.

10. (Currently Amended) The process of claim [[6]] 1, wherein a DNS server uses said latency data updates and said service availability and metric measurements test ~~result~~ updates to determine ~~the~~ a best content delivery server to return for a given DNS name.

11. (Currently Amended) The process of claim [[6]] 1, wherein said service metric probe means sends a packet request to a content delivery server and receives, in response, a packet containing ~~the~~ various metrics of the content delivery server, and wherein said service metric probe means combines the content delivery server's metrics to arrive at a load metric which is sent to ~~said~~ at least one DNS server[[s]].

12. (Currently Amended) A process for a determining server performance metrics in a network, comprising the steps of:

providing service metric probe means resident on a server for determining ~~the~~ service availability and metric measurements of types of services provided by a content delivery ~~machine~~ server;

providing latency probe means resident on a server for determining ~~the~~ a latency value for [[of]] various servers within said network;

~~providing at least one DNS server;~~

wherein said service metric probe means sends an update to all ~~of said~~ DNS servers in said network that consists of all service availability and metric measurements since ~~the~~ a last update; and

wherein said latency probe means updates said DNS servers with clients' latency data.

13. (Currently Amended) The process of claim 12, wherein said service metric probe means consults a configuration file containing each DNS name in ~~its~~ said service metric probe means' area and ~~the~~ any set(s) of services associated with each DNS name, and wherein said services include~~, but are not limited to~~ any of: HTTP, HTTPS, FTP, streaming media, [[and/]]or generic SNMP.

14. (Currently Amended) The process of claim 12, wherein said latency probe means calculates ~~the~~ a latency value from ~~its~~ said latency probe means' location to a client's location.

15. (Currently Amended) The process of claim 12, wherein each content delivery server in said network has a metric test associated with each service supported by said content delivery server.

16. (Currently Amended) The process of claim 12, wherein said service metric probe means periodically performs metric tests on ~~the~~ content delivery servers within ~~its~~ said

service metric probe means' area, and wherein said service metric probe means records ~~the~~ metric results from said periodic tests.

17. (Currently Amended) The process of claim 12, wherein said latency probe means calculates ~~the~~ a round trip time for sending a packet to a client to obtain ~~the~~ a latency value, and wherein ~~the~~ round trip time tests that said latency probe means performs, includes~~, but are not limited to~~ any of: PING, UDP Reverse Name lookup, [[and/]]or UDP Packets to high number ports.

18. (Currently Amended) The process of claim 12, wherein when said latency probe means sends a UDP Packet probe to high number ports that fail[[s]], said latency probe means resends said UDP Packet probe with a low TTL number and increments the TTL number until failure occurs, ~~the~~ a last successful TTL ~~value~~ number ~~will~~ indicates ~~the~~ partial latency data.

19. (Currently Amended) The process of claim 12, wherein a DNS server uses said latency ~~test~~ data updates to determine ~~the~~ a closest content delivery server to a client.

20. (Currently Amended) The process of claim 12, wherein a DNS server uses said latency data updates and said service availability and metric measurements test ~~result~~ updates to determine ~~the~~ a best content delivery server to return for a given DNS name.

21. (Currently Amended) The process of claim 12, wherein said service metric probe means sends a packet request to a content delivery server and receives, in response, a packet

containing the various metrics of the content delivery server, and wherein said service metric probe means combines the content delivery server metrics to arrive at a load metric which is sent to said DNS servers.

22. (Currently Amended) A program storage medium readable by a computer, tangibly embodying a program of instructions executable by the computer to perform method steps for a determining server performance metrics in a network, comprising the steps of:

providing service metric probe means resident on a server for determining the service availability and metric measurements of types of services provided by a content delivery ~~machine~~ server;

providing latency probe means resident on a server for determining ~~the~~ latency values for [[of]] various content delivery servers within said network;

wherein said service metric probe means consults a configuration file containing each DNS name in ~~its~~ said service metric probe means' area and ~~the~~ any set(s) of services associated with each DNS name;

wherein said services include~~, but are not limited to~~ any of: HTTP, HTTPS, FTP, streaming media, [[and/]]or generic SNMP; and

wherein said latency probe means calculates ~~the~~ a latency from ~~its~~ said latency probe means' location to a client's location.

23. (Currently Amended) The method of claim 22, wherein each content delivery server in said network has a metric test associated with each service supported by ~~said~~ each content delivery server.

24. (Currently Amended) The method of claim 22, wherein said service metric probe means periodically performs metric tests on ~~the~~ content delivery servers within ~~its~~ said service metric probe means' area, and wherein said service metric probe means records ~~the~~ metric results from said periodic tests.

25. (Currently Amended) The method of claim 22, wherein said latency probe means calculates ~~the~~ a round trip time for sending a packet to a client to obtain the latency value, and wherein ~~the~~ round trip time tests that said latency probe means performs, includes~~, but are not limited to~~ any of: PING, UDP Reverse Name lookup, [[and/]]or UDP Packets to high number ports.

26. (Currently Amended) The method of claim 22, wherein when said latency probe means sends a UDP Packet probe to high number ports that fail[[s]], said latency probe means resends said UDP Packet probe with a low TTL number and increments the TTL number until failure occurs, ~~the~~ a last successful TTL ~~value~~ number ~~will~~ indicates ~~the~~ partial latency data.

27. (Canceled)

28. (Currently Amended) The method of claim [[27]] 22, wherein said service metric probe means sends an update to all ~~of said~~ DNS servers in said network that consists of all tests since ~~the~~ a last update.

29. (Currently Amended) The method of claim [[27]] 22, wherein said latency probe means updates ~~said~~ DNS servers with ~~the~~ a clients' latency data.

30. (Currently Amended) The method of claim [[27]] 22, wherein a DNS server uses ~~said~~ latency ~~test~~ data updates to determine ~~the~~ a closest content delivery server to a client.

31. (Currently Amended) The method of claim [[27]] 22, wherein a DNS server uses said latency data updates and said service availability and metric measurements test ~~result~~ updates to determine ~~the~~ a best content delivery server to return for a given DNS name.

32. (Currently Amended) The method of claim [[27]] 22, wherein said service metric probe means sends a packet request to a content delivery server and receives, in response, a packet containing ~~the~~ various metrics of the content delivery server, and wherein said service metric probe means combines the content delivery server's metrics to arrive at a load metric which is sent to ~~said~~ at least one DNS server[[s]].

33. (Currently Amended) A program storage medium readable by a computer, tangibly embodying a program of instructions executable by the computer to perform method steps for a determining server performance metrics in a network, comprising the steps of:

providing service metric probe means resident on a server for determining ~~the~~ service availability and metric measurements of types of services provided by a content delivery ~~machine~~ server;

providing latency probe means resident on a server for determining ~~the~~ a latency value for [[of]] various servers within said network;

~~providing at least one DNS server;~~

wherein said service metric probe means sends an update to all ~~of said~~ DNS servers in said network that consists of all service availability and metric measurements since ~~the~~ a last update; and

wherein said latency probe means updates said DNS servers with clients' latency data.

34. (Currently Amended) The method of claim 33, wherein said service metric probe means consults a configuration file containing each DNS name in ~~its~~ said service metric probe means' area and ~~the~~ any set(s) of services associated with each DNS name, and wherein said services include~~, but are not limited to~~ any of: HTTP, HTTPS, FTP, streaming media, [[and/]]or generic SNMP.

35. (Currently Amended) The method of claim 33, wherein said latency probe means calculates ~~the~~ a latency value from ~~its~~ said latency probe means' location to a client's location.

36. (Currently Amended) The method of claim 33, wherein each content delivery server in said network has a metric test associated with each service supported by said content delivery server.

37. (Currently Amended) The method of claim 33, wherein said service metric probe means periodically performs metric tests on ~~the~~ content delivery servers within ~~its~~ said

service metric probe means' area, and wherein said service metric probe means records ~~the~~ metric results from said periodic tests.

38. (Currently Amended) The method of claim 33, wherein said latency probe means calculates ~~the~~ a round trip time for sending a packet to a client to obtain ~~the~~ a latency value, and wherein ~~the~~ round trip time tests that said latency probe means performs, includes~~, but are not limited to~~ any of: PING, UDP Reverse Name lookup, [[and/]]or UDP Packets to high number ports.

39. (Currently Amended) The method of claim 33, wherein when said latency probe means sends a UDP Packet probe to high number ports that fail[[s]], said latency probe means resends said UDP Packet probe with a low TTL number and increments the TTL number until failure occurs, ~~the~~ a last successful TTL ~~value~~ number ~~will~~ indicates ~~the~~ partial latency data.

40. (Currently Amended) The method of claim 33, wherein a DNS server uses said latency ~~test~~ data updates to determine ~~the~~ a closest content delivery server to a client.

41. (Currently Amended) The method of claim 33, wherein a DNS server uses said latency data updates and said service availability and metric measurements test ~~result~~ updates to determine ~~the~~ a best content delivery server to return for a given DNS name.

42. (Currently Amended) The method of claim 33, wherein said service metric probe means sends a packet request to a content delivery server and receives, in response, a packet

containing the various metrics of the content delivery server, and wherein said service metric probe means combines the content delivery server metrics to arrive at a load metric which is sent to said DNS servers.

43. (New) An apparatus for a determining server performance metrics in a network, comprising:

service metric probe means resident on a server for determining service availability and metric measurements of types of services provided by a content delivery server;

latency probe means resident on a server for determining latency values for various content delivery servers within said network;

wherein said service metric probe means consults a configuration file containing each DNS name in said service metric probe means' area and any set(s) of services associated with each DNS name;

wherein said services include any of: HTTP, HTTPS, FTP, streaming media, or generic SNMP; and

wherein said latency probe means calculates a latency value from said latency probe means' location to a client's location.

44. (New) The apparatus of claim 43, wherein each content delivery server in said network has a metric test associated with each service supported by each content delivery server.

45. (New) The apparatus of claim 43, wherein said service metric probe means periodically performs metric tests on content delivery servers within said service metric

probe means' area, and wherein said service metric probe means records metric results from said periodic tests.

46. (New) The apparatus of claim 43, wherein said latency probe means calculates a round trip time for sending a packet to a client to obtain the latency value, and wherein round trip time tests that said latency probe means performs, includes any of: PING, UDP Reverse Name lookup, or UDP Packets to high number ports.

47. (New) The apparatus of claim 43, wherein when said latency probe means sends a UDP Packet probe to high number ports that fail, said latency probe means resends said UDP Packet probe with a low TTL number and increments the TTL number until failure occurs, a last successful TTL number indicates partial latency data.

48. (New) The apparatus of claim 43, wherein said service metric probe means sends an update to all DNS servers in said network that consists of all tests since a last update.

49. (New) The apparatus of claim 43, wherein said latency probe means updates DNS servers with a clients' latency data.

50. (New) The apparatus of claim 43, wherein a DNS server uses latency data updates from said latency probe means to determine a closest content delivery server to a client.

51. (New) The apparatus of claim 43, wherein a DNS server uses said latency data updates and said service availability and metric measurements test updates to determine a best content delivery server to return for a given DNS name.

52. (New) The apparatus of claim 43, wherein said service metric probe means sends a packet request to a content delivery server and receives, in response, a packet containing various metrics of the content delivery server, and wherein said service metric probe means combines the content delivery server's metrics to arrive at a load metric which is sent to at least one DNS server.

53. (New) An apparatus for a determining server performance metrics in a network, comprising:

service metric probe means resident on a server for determining service availability and metric measurements of types of services provided by a content delivery server;

latency probe means resident on a server for determining a latency value for various servers within said network;

wherein said service metric probe means sends an update to all DNS servers in said network that consists of all service availability and metric measurements since a last update; and

wherein said latency probe means updates said DNS servers with clients' latency data.

54. (New) The apparatus of claim 53, wherein said service metric probe means consults a configuration file containing each DNS name in said service metric probe means' area and

any set(s) of services associated with each DNS name, and wherein said services include any of: HTTP, HTTPS, FTP, streaming media, or generic SNMP.

55. (New) The apparatus of claim 53, wherein said latency probe means calculates a latency value from said latency probe means' location to a client's location.

56. (New) The apparatus of claim 53, wherein each content delivery server in said network has a metric test associated with each service supported by said content delivery server.

57. (New) The apparatus of claim 53, wherein said service metric probe means periodically performs metric tests on content delivery servers within said service metric probe means' area, and wherein said service metric probe means records metric results from said periodic tests.

58. (New) The apparatus of claim 53, wherein said latency probe means calculates a round trip time for sending a packet to a client to obtain a latency value, and wherein round trip time tests that said latency probe means performs, includes any of: PING, UDP Reverse Name lookup, or UDP Packets to high number ports.

59. (New) The apparatus of claim 53, wherein when said latency probe means sends a UDP Packet probe to high number ports that fail, said latency probe means resends said UDP Packet probe with a low TTL number and increments the TTL number until failure occurs, a last successful TTL number indicates partial latency data.

60. (New) The apparatus of claim 53, wherein a DNS server uses said latency data updates to determine a closest content delivery server to a client.

61. (New) The apparatus of claim 53, wherein a DNS server uses said latency data updates and said service availability and metric measurements test updates to determine a best content delivery server to return for a given DNS name.

62. (New) The apparatus of claim 53, wherein said service metric probe means sends a packet request to a content delivery server and receives, in response, a packet containing the various metrics of the content delivery server, and wherein said service metric probe means combines the content delivery server metrics to arrive at a load metric which is sent to said DNS servers.